THE HON'BLE SRI JUSTICE C.V. RAMULU

Writ Petition No.21993 of 2007

Dated: 13.12.2007

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Between

B.Eswara Rao.

Petitioner

And

The A.P.S.R.T.C. and others.

Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

Writ Petition No.21993 of 2007

ORDER:

This writ petition is filed seeking a Mandamus to declare the action of the 4th respondent in issuing proceedings No.M1/1(90)/2003-SLR, Salur, dated 09.05.2006 as confirmed by the appellate authority vide proceedings No.Peshi/1(47)/2006-RM, Vizianagaram, dated 26.09.2007 as arbitrary and illegal and consequently to direct the respondents to reinstate the petitioner with all consequential benefits.

It appears, while working as a Conductor at APSRTC Bus Depot, Salur, the petitioner was absent unauthorizedly for his duties from 05.06.2003 to 26.08.2003. Therefore, a charge sheet was issued, an enquiry was conducted and he was removed from service by the Depot Manager, by an order, dated 09.05.2006.

Aggrieved thereby, the petitioner carried the matter in appeal before the Regional Manager, Vizianagaram. The appellate authority after going through the removal order as well as other records felt that there was no necessity of interfering into the order passed by the disciplinary authority and rejected the appeal by an order dated 26.09.2007. Hence, this Writ Petition.

There is no necessity of going into all the details. It appears, a complaint was made as to the absence of the petitioner from 05.0-6.2003 to 26.08.2003 by the Senior Traffic Inspector, Salur Depot. It is unfortunate that the said Senior Traffic Inspector himself being a complainant was appointed as an Enquiry Officer and he conducted an enquiry and submitted a report, dated 28.02.2004 holding that the charges framed against the petitioner are proved. Basing on the said report, the petitioner was removed from service.

It is well settled principle of law that nobody can be a judge in his own cause. In this case, the Senior Traffic Inspector being complainant ought not to have enquired into the matter and submitted the report. Therefore, the very enquiry conducted against the petitioner is vitiated in law and thus, the impugned order passed by the Depot Manager on 09.05.2006 as confirmed by the appellate authority on 26.09.2007 is liable to be set aside.

Generally speaking, the matter must be remitted back for re-consideration. But, since the absenteeism is a

matter of record and the petitioner is already out of service for more than one year, I deem it appropriate to give a quietus to the litigation at this stage itself.

Therefore, to meet the ends of justice, while setting aside the impugned order, the respondents are directed to reinstate the petitioner with continuity of service but without any attendant benefits and backwages.

With the above direction, the writ petition is allowed. No order as to costs.

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13.12.2007

JSU

THE HON'BLE SRI JUSTICE C.V. RAMULU

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